

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7016**

**BILL NUMBER:** HB 1158

**NOTE PREPARED:** Dec 29, 2010

**BILL AMENDED:**

**SUBJECT:** Texting While Operating a Motor Vehicle.

**FIRST AUTHOR:** Rep. Yarde

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Texting While Driving:* The bill makes a handheld wireless communications device to place or receive a call, transmit a text message, or transmit an electronic mail message while operating a moving motor vehicle a Class D felony if the person causes serious bodily injury to another person, and it enhances the penalty to a Class C felony if a person is killed.

*Habitual Traffic Violator:* It provides that calling while driving resulting in injury or death may constitute a predicate offense for a habitual traffic violator determination.

The bill also makes conforming amendments.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** *Texting While Driving:* There are no data available to indicate how many offenders may be convicted of a Class D or a Class C felony under the bill.

Depending upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor, and a Class C felony is punishable by a prison term ranging from 2 to 8 years. The average expenditure to house an adult offender was \$19,307 in FY 2010. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$68,260 in FY 2010. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months and for all Class C felony offenders

is approximately two years.

*Habitual Traffic Violator:* The bill includes texting while driving resulting in injury or death among the offenses that allow the court to find that the offender is a habitual violator. [This designation requires two judgments within a 10-year period.] Habitual violators may be subject to probation, have licenses suspended or conditions placed on a license, and may be subject to enhanced penalties if they are found guilty of subsequent, unrelated offenses.

**Explanation of State Revenues:** *Texting While Driving:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D or a Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

If a criminal action, infraction or ordinance violation involves a traffic violation, including this proposed offense, a highway work zone fee of either 50 cents or \$25.50 is assessed.

**Explanation of Local Expenditures:** *Texting While Driving:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** *Texting While Driving:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

**Fiscal Analyst:** Karen Firestone, 317-234-2106.